

ORIGINAL

In the United States Court of Federal Claims

No. 16-590C
(Filed: July 27, 2016)

FILED

JUL 27 2016

U.S. COURT OF
FEDERAL CLAIMS

CURT GILGENBACH and
CATHERINE GILGENBACH,

Pro Se Plaintiffs,

v.

THE UNITED STATES,

Defendant.

ORDER OF DISMISSAL

The court is in receipt of plaintiffs' "Writ of Error" (Docket No. 10) and "Notice of Deviling" (Docket No. 11), filed by the court's leave on July 22, 2016, in response to the court's July 8, 2016 order¹ (Docket No. 7) requiring the plaintiffs to pay the \$400.00 filing fee. Plaintiffs were given until July 22, 2016 to pay the filing fee and were on notice that failure to pay the filing fee would result in the dismissal of their case.

In their current notice, as in their complaint, plaintiffs claim that the court cannot order them to pay the \$400.00 filing fee because their suit is a "Seaman's Suit pursuant to 28 U.S.C. § 1916/62 Stat. 955." 28 U.S.C. § 1916 reads as follows:

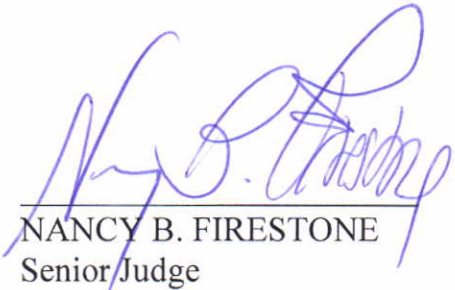
In all courts of the United States, seamen may institute and prosecute suits and appeals in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without prepaying fees or costs or furnishing security therefor.

The court has reviewed plaintiffs' claims and finds that they are not based on or for "wages or salvage or the enforcement of laws enacted for their health or safety."

¹ On July 6, 2016 plaintiffs filed a notice (Docket No. 6) informing the court that plaintiffs had decided not to proceed *in forma pauperis*.

Specifically, plaintiffs seek restitution of all taxes collected between 1968 and 2016 by Bloomingdale Township, DuPage County, and the State of Illinois on property in Glendale Heights, Illinois (Docket No. 1, Complaint, page 3). To the extent plaintiffs' claims are tax claims against state and local governments, the seaman's suit provision is not applicable. Therefore, plaintiffs are not exempt from having to pay the court's filing fee. Accordingly, because plaintiffs have failed to timely pay the \$400.00 filing fee as directed by the court's July 8, 2016 order, the above-captioned case is **DIMISSED** for failure to pay the filing fee.²

IT IS SO ORDERED.



NANCY B. FIRESTONE
Senior Judge

² The court further notes that because plaintiffs' tax claims involve state and local entities, the court would not have jurisdiction over this case. *See* 26 U.S.C. 7422(a); 28 U.S.C. § 1491(a).